

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: ETHICON, INC.
PELVIC REPAIR SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL 2327
CHIEF JUDGE JOHNSTON

THIS DOCUMENT RELATES TO CASES
IDENTIFIED ON EXHIBIT A

**ORDER AND SUGGESTION OF REMAND
FOR CASES ON EXHIBIT A**

Pursuant to 28 U.S.C. § 1407 and the Rules for Multidistrict Litigation promulgated thereunder, specifically Rule 10.1(b), the Court suggests that the actions on Exhibit A be remanded to the United States District Courts from which they came as identified on Exhibit A. The individual cases on Exhibit A were transferred by the Judicial Panel on Multidistrict Litigation (“JPML”) and are related to MDL 2327 (“Ethicon MDL”), 2:12-md-2327, one of seven MDLs assigned to Judge Joseph R. Goodwin by the JPML. The seven MDLs combined totaled over 100,000 cases since inception.

During the pendency of this MDL litigation, Judge Goodwin developed a conflict in certain cases assigned to him, including those on Exhibit A. As a result, the JPML reassigned the cases on Exhibit A to me. Of the approximately 183 cases assigned to me, 39 remain. Of the remaining 39 cases, 3 are listed on Exhibit A and are ready to be remanded to the appropriate jurisdiction. In particular, the time to conduct discovery is complete in the cases on Exhibit A, and the parties have had time to file dispositive and *Daubert* motions, responses and replies. For the convenience of the parties and in order to promote the final resolution of these cases, it appears to the court that

the cases would be more expeditiously concluded in the District Court from which they came. *Upon remand, I urge the receiving court to immediately set these cases for trial without reopening discovery.*

On or before **October 29, 2019 (7 days from the date of this order)**, the parties are **ORDERED** to confer and to file *in the individual cases on Exhibit A*, all documents from the main MDL that the parties jointly deem relevant to constitute an appropriate record for the receiving court to consider. When filing the documents from the main MDL, the parties are directed to use the CM/ECF event entitled “Designation of Record for MDL Transfers” (available under Civil > Other Filings > Other Documents). When completing the event, the “Main Document” should be the list of joint designations from the main MDL, and the “Attachments” should be each individual document on the joint designation list with the “Description” being the ECF number and a brief description of the document (*i.e.* ECF 96 – Defendant’s Motion for Summary Judgment).

The Court **ORDERS** that upon receipt and filing of an order to remand from the Clerk of the JPML (hereinafter the “Transfer Date”), the Clerk of this Court, pursuant to 28 U.S.C. § 1407, shall remand the cases on Exhibit A to the appropriate District Courts. If the cases on Exhibit A remain pending on the Transfer Date, they must be remanded, and the parties shall bear the consequences in the receiving court of any failure to prepare an appropriate record as directed in this order. The parties and the receiving court are advised that all Pretrial Orders entered in this matter are available for review on the Court’s website at www.wvsc.uscourts.gov/MDL/2327/orders.html and the master docket sheet can be found on this Court’s CM/ECF at 2:12-md-2327. *Finally, the Court advises the parties that while the docket of the individual cases will be remanded to the receiving court, it is the parties’ responsibility to*

follow the receiving court's procedure for identifying any individual motions that remain pending and in need of ruling.

On the Transfer Date, the Clerk is hereby **DIRECTED** to use the appropriate function in CM/ECF to extract the member cases listed on Exhibit A that remain pending and remand each member case to the appropriate District Court listed on Exhibit A. After remand of the cases on Exhibit A, the Clerk is **DIRECTED** to formally close the cases and strike it from the docket of this court.

IT IS SO ORDERED.

The court further **DIRECTS** that a copy of this Order and Suggestion of Remand and Exhibit A be filed in every case listed on Exhibit A and sent to the Clerk of the MDL Panel and counsel of record or any unrepresented party for the cases listed on Exhibit A.

ENTER: October 22, 2019



THOMAS E. JOHNSTON, CHIEF JUDGE

EXHIBIT A

| | Civil Action No. | Case Style | Transfer Court |
|---|------------------|-------------------------------------|----------------------------|
| 1 | 2:13-cv-02511 | George v. Johnson & Johnson et al | Indiana, Northern District |
| 2 | 2:12-cv-01790 | Cutter et al v. Ethicon, Inc. et al | Kentucky, Eastern District |
| 3 | 2:13-cv-12710 | Golden v. Ethicon, Inc. et al | Kentucky, Western District |